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*Attorneys for Defendant Ravenswood
 City School District and Related
 Defendants*

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

EMMA C., et al.,

Plaintiffs,

v.

THURMOND, et al.,

Defendants.

3:96-cv-04179-VC

**JOINT CASE MANAGEMENT
 CONFERENCE STATEMENT**

Date: August 28, 2019
 Time: 9:30 a.m.
 Judge: The Honorable Vince Chhabria

Pursuant to the Court's July 5, 2019 Order re State's Compliance at Phase 2 (Dkt. 2520) ("Phase 2 Order") setting a Case Management Conference for August 28, 2019, the parties, Plaintiffs Emma C. et al.; Defendants California Department of Education ("CDE"), Tony Thurmond, in his official capacity as the State Superintendent of Public Instruction, and State Board of Education ("SBE") (collectively, "State Defendants" or the "State"); and Defendant Ravenswood City School District (the "District"), submit this Joint Case Management Conference Statement. Consistent with the Phase 2 Order, the parties address the following items.

I. STATE'S PROPOSALS REGARDING IEP IMPLEMENTATION DATA COLLECTION

Plaintiffs' and State Defendants' position: State Defendants and Plaintiffs conducted three calls to discuss the concerns in the Court's August 17, 2018 Order re State's Compliance at Phase 1 (Dkt. 2428) relating to data collection proposals with respect to IEP implementation. These calls were held on August 2, 2019, August 6, 2019, and August 13, 2019. The August 13, 2019 call also included the Monitor.

The meetings were productive. To inform their discussions, State Defendants and Plaintiffs discussed using the Service Delivery Report used by the District as a framework for data collection throughout the State. A copy of that Service Delivery Report begins on page 3 of the document attached hereto as **Exhibit A**. The proposed data collection process, at a high-level, would encompass the following:

1. The State would direct LEAs to track delivery of services minutes for each student with an IEP.
2. The State would direct LEAs to report data on delivery of services minutes to the State annually in a valid and reliable manner using a sample of students with IEPs within the LEA. The State is continuing to discuss and consider statistically significant sample sizes for LEA reporting to the State.
3. The State will develop a method to ensure the validity and reliability of the data collected from the LEAs.

1 *District's position:* The District takes no position on this issue.

2 **II. PROPOSED SCHEDULE FOR FURTHER PHASE 2 HEARINGS PER JULY 5,**
 3 **2019 ORDER**

4 *Plaintiffs' and State Defendants' position:* To address the remaining issues in Phase 2 for
 5 which the Court did not find the State in compliance, the parties have discussed the possibility of
 6 having the Court conduct hearings on those remaining areas as set forth in the Phase 2 Order,
 7 which—in the Court's and parties' view—may be sufficiently discrete to address on an expedited
 8 schedule and that would not require consideration of the State Performance Plan ("SPP") targets,
 9 which are anticipated to be approved by SBE in early May 2020. The parties believe that
 10 discussing the scope of those issues at the Case Management Conference would be productive in
 11 determining whether there are in fact discrete issues that could be addressed on an expedited
 12 schedule with a separate hearing for such issues. The parties have discussed that for any such
 13 issues, State Defendants' Further Phase 2 submission would be due by Friday, January 31, 2020,
 14 with a hearing schedule based on that date.

15 In addition to the expedited schedule referenced above, or, to the extent that the Court
 16 prefers a single hearing on the remaining Phase 2 issues for which the State was found out of
 17 compliance, the parties also propose the following schedule, which would allow the State to
 18 incorporate into its written submission the SPP targets anticipated to be approved by SBE in early
 19 May 2020.

- 20 • State Defendants' Further Phase 2 Submission: due Friday, May 15, 2020;
- 21 • Monitor's Compliance Report: due Friday, June 26, 2020;
- 22 • State Defendants' response to Monitor's Compliance Report: due Friday, July 24,
- 23 2020;
- 24 • Plaintiffs' and any amicus responses: due Friday, August 21, 2020;
- 25 • Further Phase 2 hearing: One (1) to two (2) days between September 14 through
- 26 September 30, 2020.

27 *District's position:* The District takes no position on this issue.

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1 Dated: August 21, 2019

Respectfully submitted,

2 XAVIER BECERRA
3 Attorney General of California
4 ISMAEL A. CASTRO
5 Supervising Deputy Attorney General

6 /s/ Darrell W. Spence
7 /s/ Kirin K. Gill
8 DARRELL W. SPENCE
9 KIRIN K. GILL
10 Deputy Attorneys General
11 *Attorneys for Defendants*
12 *California Department of Education, Tony*
13 *Thurmond, in his official capacity as the*
14 *State Superintendent of Public Instruction,*
15 *and State Board of Education*

16 YOUTH AND EDUCATION LAW PROJECT –
17 STANFORD LAW SCHOOL

18 By: /s/
19 William S. Koski

20 NATIONAL CENTER FOR YOUTH LAW

21 By: /s/
22 Leecia Welch
23 Freya Pitts

24 *Attorneys for Plaintiffs Emma C., et al.*

25 COUNTY COUNSEL OF THE COUNTY OF SAN
26 MATEO

27 By: /s/
28 Aimee B. Armsby, Deputy County Counsel

Attorneys for Ravenswood City School
District

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1 Pursuant to Local Rule 5-1(i)(3) regarding signatures, I, Kirin K. Gill, attest that
2 concurrence in the filing of this document has been obtained from each of the other signatories. I
3 declare under penalty of perjury under the laws of the United States of America that the foregoing
4 is true and correct. Executed this 21st day of August, 2019, at Sacramento, California.

5 /s/ Kirin K. Gill
6 Kirin K. Gill

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EXHIBIT A

Parent Participation Report

Requirement:

The District will review at least 25 randomly selected initial or annual IEPs two times a school year to determine parent attendance and participation at IEP meetings.

By the third Wednesday in January for IEPs held from **August through November 2nd** (end of first semester)

By the first Wednesday in June for IEPs held from **November through March 1st** (end of second semester)

Evidence of Performance:

Student records; IEP attendance signature page and IEP meeting notes documenting any special circumstances

District procedures to ensure parent participation at IEP meetings:

The District has written guidelines which are part of the IEP 30-day checklist that the case managers use to set up an IEP meeting. Thirty days or more before the IEP meeting is due, the case managers make at least three attempts via phone, email, student backpack, and/or at pick up/ drop off to connect with the parent/ guardian to determine a mutually agreed upon time and date to hold the upcoming meeting.

The written IEP Notice of Meeting is sent to the parent ahead of the meeting, documenting this date and time. In addition, often the parent receives a reminder phone call closer to the date of the IEP meeting.

When the parent/ guardian is not in attendance at the first scheduled meeting, the IEP team members sign the attendance page and the existing offer of consented FAPE continues. The team may briefly discuss progress, but no changes are made to the IEP. The case manager makes additional attempts to connect with the parent and find a mutually agreed upon time and date. A second written IEP notice of meeting is sent to the parent with the second rescheduled date to hold this meeting. If at this second rescheduled meeting date, the parent attends, the IEP team reviews the discussion from the first meeting and moves into the IEP meeting. However, if the parent does not attend the second rescheduled IEP meeting, a third attempt is made. The existing offer of FAPE stays in place. A third IEP notice of meeting is sent out and if the parent does not respond to, or attend this meeting, the IEP is marked as an 'unsigned' IEP with services continuing. A copy of the IEP document is sent home to the parent. The Principal and/ or Director may reach out to the parent via mail to move the process forward and find a mutually agreed upon time and date. At times a home visit is made in an attempt to include the parent in the IEP process.

Post-RSIP Transition Period: Stipulated Self-Monitoring

Date of report: 06/05/2019

Report and Supporting Evidence:

Files of 26 students who had annual, triennial, or initial IEP meetings between 11/3/2018 and 3/1/2019 were reviewed. The results are below:

Parent / Guardian Present	No parent / Guardian Present
26 student IEP meetings (100%)	See notes below

Evidence was found that of the 26 student files reviewed 26 parents or guardians participated in the IEP meeting **100%** of the time.

- 20 parents/guardians (**77%**) attended the IEP meeting at the first scheduled date and time;
- 4 parents/ guardians (**15%**) missed the first meeting, but attended the IEP meeting at the second rescheduled date and time;
- 2 parents/ guardians (**8%**) missed two scheduled IEP meetings but attended the third IEP meeting;

Documents reviewed for each student included the IEP 'Signature and Parent Consent page, IEP meeting notes and IEP meeting notices.

Notes:

1. The District would like to mention that for the 6 students whose parents missed the initially scheduled IEP meetings, but later attended the second or third scheduled meeting, the IEP teams documented the continued existing offer of free appropriate public education (FAPE) in the meeting notes until consent and input was obtained from the parent at the IEP meeting.
2. The District would like to note that there are two (2) students in this sample whose IEP teams held continuation IEP meetings across 3 different meetings dates before the parent consented to the IEP. The parent participated in all the continuation IEP meetings and signed consent only after three or more meetings.
3. The files reviewed did not show any missed IEP timelines and documented continued offers of FAPE when parents were not initially in attendance.
4. Data reviewed for this indicator was obtained through a review of "Historical Dates" in SEIS for each student.

Post-RSIP Transition Period: Stipulated Self-Monitoring

Date of report: 06/05/2019

Service Delivery Report

Requirement:

The District shall ensure the provision of all services as specified in the IEPs of students. The District, two times a year, will review service delivery from a randomly selected sample of no less than 15% of all special education students enrolled in Ravenswood.

By the third Wednesday in January for IEPs held from **August through November 2nd** (end of first semester)

By the first Wednesday in June for IEPs held from **November through March 1st** (end of second semester)

On 3/1/2019, SEIS listed **450 eligible** students in Ravenswood

Required: 15% of 450 = 68 students The District has completed the service delivery review of **72 student files**

Evidence of Performance:

IEP service page indicating services owed and staff monthly service logs indicating services provided.

Report and Analysis:

Historically, the District was monitored under the Ravenswood Self Improvement Plan (RSIP) using the compliance criteria of 95% of all services provided to a student. Using this criteria, the data shows that for the service logs of **72** students with special education services were reviewed between 11/2/2018 - 3/1/2019:

- Evidence was found in **59 of the 72 files (82 %)** that 95 % of IEP services were provided in accordance with the consented IEP.
- Evidence was found in **13 of the 72 files (18 %)** that some IEP services were not provided in accordance with the student's IEP. These students received less than 95% of their special education services.

Services Provided	Services Owed
82 %	18%

Post-RSIP Transition Period: Stipulated Self-Monitoring

Date of report: 06/05/2019

Summary of post-RSIP data submitted over time

Reporting Period	Services Provided	Services Owed
August 2017- November 2017 <i>*used 100% of services provided criteria</i>	75.36%	24.36%
November 2017- March 2018 <i>*used 95% of services provided criteria</i>	90%	10%
August 2018- November 2018 <i>*used 95% of services provided criteria</i>	80%	20%
November 2018- March 2019 <i>*used 95% of services provided criteria</i>	82%	18%

The District conducted a deeper analysis of IEP services for all 72 student files reviewed.

Service	Data review	Trends
Specialized Academic Instruction (SAI)	<p>60 students had SAI services in the self review pool of students.</p> <p>50 students (83%) had at least 95% of specialized academic services provided.</p> <p>10 students (17%) received less than 95% of their specialized academic services.</p>	<ul style="list-style-type: none"> • [REDACTED] 5 students missed some service minutes • [REDACTED] - 4 student missed some service minutes • [REDACTED] - 1 student missed some service minutes
Speech and Language Therapy	57 students had this service on their IEP.	<ul style="list-style-type: none"> • [REDACTED] 3 total students missed some service minutes

Post-RSIP Transition Period: Stipulated Self-Monitoring

Date of report: 06/05/2019

	<p>47 students (82%) received at least 95% of their speech and language service</p> <p>10 students (17%) missed some of their speech and language services</p>	<ul style="list-style-type: none"> • [REDACTED] 2 students missed some service minutes • [REDACTED] - 5 students missed some service minutes
Occupational Therapy	<p>24 students had this service on their IEP</p> <p>24 students (100%) had at least 95% of their OT services provided</p>	
Intensive Individual Services (Paraeducator)	<p>24 students had this service on their IEP</p> <p>23 students (96%) received all their IIS services</p> <p>1 students (4 %) did not receive some of this service</p>	<ul style="list-style-type: none"> • [REDACTED] - 1 student missed some of their service minutes
Adaptive Physical Education	<p>3 students had this service on their IEP.</p> <p>3 students (100%) received this service</p>	
Audiology	<p>2 students had this service on their IEP.</p> <p>2 students (100%) received this</p>	

Post-RSIP Transition Period: Stipulated Self-Monitoring

Date of report: 06/05/2019

	service.	
Physical Therapy	3 students had this service on their IEP.. 3 students (100%) received this service	
Counseling	1 student had this service on his/her IEP. 100% of this service was provided to the student.	

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CERTIFICATE OF SERVICE

Case Name: **Emma C., et al. v. Thurmond,
et al.**

No. **3:96-cv-04179-VC**

I hereby certify that on August 21, 2019, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 21, 2019, at Sacramento, California.

J. Hutcherson
Declarant

/s/ J. Hutcherson
Signature

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